

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

09 Cr. 512 (LAP)

ABDUWALI ABDUKHADIR MUSE, :

Defendant. :

-----X

REPLY SENTENCING SUBMISSION OF ABDUWALI ABDUKHADIR MUSE

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The Government's submission, characterizes our "claim" that the three pirates were shot "in the process of surrendering" as "patently false." Contrary to the Government's argument, there is substantial evidence that an agreement had been reached prior to the shooting. First, the elder with whom the Navy was negotiating has submitted an affirmation that both sides had reached an agreement. Exhibit O. Second, the existence of such an agreement is reflected in the Governments' 302's. For example, in the conversation, as contained in the Government's April 16, 2009 note, pp. 25-26, the interpreter told Abduwali about the meeting with the elders and Abduwali "agreed to follow." The deal also is reflected in the notes of July 23, 2009, which refers to a conversation between the Navy interpreter and the elder, that was played over the loudspeaker for the pirates. The pirates said they would wait for the elder. p. 30-31.

In the Government's translation of a conversation between Abduwali and one of the pirates on the lifeboat, Abduwali told the other pirate that an agreement had been reached. April 13, 2009. Tr. 55. Again, the reaching of the agreement is referred to in a conversation with Mohamed LNU. Tr. 381. Similarly, Abduwali told one of the pirates, "I am telling you that we reached an

agreement.” Tr. 67. The negotiations between the United States and the elders is referred to during the April 11, 2009 conversation. Tr. 441.

Finally, the conduct of three pirates is consistent with their understanding that an agreement had been reached. Two of the pirates were standing in plain sight outside the front hatch and the third stuck his head out of the window when they were shot. Absent an agreement, it is unlikely that they would have made themselves such easy targets.

Since none of the conduct involving the shooting was captured on the video or audio tapes, there is no definitive proof available. However, the available evidence supports Abduwali’s belief that he had been betrayed by the Navy, that the Navy could not be trusted that his observation had a traumatic impact on him.

Dated: New York, New York
February 14, 2011

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EXHIBIT O

United states district court
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AFFIRMATION

-V. - :

Abduwali Muse, : 09 Cr. 512 (LAP)

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I am Abdi Said Ali Suriyan. I am swearing under God's name that this statement is true.

1. I was born in the city of Garacad and I am a chief man. Between the years of 1994-1998 I was the chairman of the city.

2. The month of April 2009, a man who was in Garoowe contacted me by telephone. He asked me if I would help him negotiate with the American navy and men who was holding the American captain hostage. The name of the captain was Phillips and after he explained to me I agreed.

3. Then an interpreter called me who was on a ship that the Americans owned. The interpreter asked me if I could help the American military, to get the captain back safely.

4. Then I asked for advice from the other community in Garacad and the representative of Puntland. The government in Puntland gave us the okay to help the Americans with the negotiations with only one condition. Which was turn over the Somali men to us so when we bring back to Puntland they can go through the court system in Puntland. I told the American military we all agreed on the one condition of the Puntland government.

5. The Interpreter on the American ship told us that the American military needed time to think over the one condition that we asked for.

6. The Interpreter on the American ship also told me that Abdiwali was with the American military, who was on the ship. Time passed as I found out that the three Somali guys agreed to let the captain go without any conditions.

7. The Interpreter asked me if I could come to the American ship because they were holding Captain Phillips so I could start working on Captain Phillips safety and also help to turn over the Somali men to the Puntland prison. I agreed to meet with them and began to prepare a group.

8. Later that afternoon I called the interpreter and I told him that I was ready to come to him.

9. One hour later, a man called me who was in Garoowe. He was the same man who called me at the beginning and asked me to help the American military to negotiate with the Somalia men who were holding Captain Phillips hostage. The man told me something had happened and the three Somali guys were killed.

Signature

Abdi Said Ali Suriyan

Date: 22- Nov-2009
Djibouti

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Anigoo ah, Cabdi Siciid Cal;I Suuriyaan Waxaan ku dhaaranayaa Magaca Alle
inay warbixintan soo socota ay xaqiiqo tahay:

1. Waxaan ahay oday dhaqameed ku nool deegaanka Garacad kuna dhashay deegaanka. Intii u dhexeysay 1994-1998 waxaana ka ahaa guddoomiye ahaa Magaalada Garacad.
2. Bishii April 2009, waxaa telephone igula soo xiriiray nin joogay Garoowe, kaas oo iga dalbaday inaan dhexdhexaadiyo Ciidamada Badda maraykanka iyo niman haystay Kabtan Maraykan ah oo lagu magaaabo Philps. Markaa ka dibna waan ogolaaday.
3. Kadib waxaa isoo wacay Turjubaan saarnaa markabka maraykanku ay lahaayeen kaas oo iga codsaday inaan ka caawiyo ciidamada Maraykanka inay dib u helaan Kabtanka isagoo bad qaba.
4. Waxaan la tashaday kadibna odayaashii kale ee ku sugnaa deegaanka Garacad iyo Mas'uuliyiin ka tirsan dawladda Puntland. Mas'uuliyiintii dawladda Puntland ayaa na siiyay ogolaansho taas oo ah inaynu ka caawino maraykana inaynu dhexdhexaadino xaaladda inagu sharuud ku xirayna, shuruuduna waxay ahayd in nimanka Soomaalida ah nalagu soo wareejiyo; lagu soo celiyo Puntland si loogu maxkamadeeyo gudaha Puntland. Waan u sheegay ciidamadii Maraykanka in halkaas shuruud aynu isku raacnay inaga iyo dawladda puntland.
5. Turjubaankii saarnaa Markabka Maraykanka ayaa noo sheegay in waqti la siiyo ciidamada marayanka ee markabka saarnaa si ay uga baaraan degaan shuruuda

aynu u soo bandhignay.

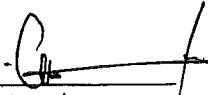
6. Turjubaanka markaba Maraykanka saaran waxa uu sidoo kale ii sheegay in Cabdiweli uu la joogay ciidamada Marayanka ee markabka saarnaa. Waxaana mar dambe la ii sheegay in seddex nine ee Soomaalida ah ee ku haystay Kabtan Philips doonta inay ogaalaadeen inay shuruud la'aan ku sii daayan Kabtanka.

7. Turjubaanku waxa uu iga codsaday inaan imaado goobtii ay joogeen Markabkii Maraykanka iyo doontii lagu hayay Kabtanka, si aan markaas uga shaqeeyo siideynta Kabtan Philips looguna wareejin lahaa nimanka soomaalida ah xabsiga Puntland. Waan ogaaladay inaan aado, waxaana bilaabay inaan diyaar garoobo.

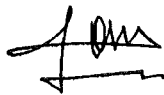
8. Goor galab gaabad ah, ayaan Turjubaankii wacay una sheegay inaan diyaar garoobay, diyaarna u ahay inaan u imaado.

9. Saacad kadib, ayaa waxaa I soo wacay nin jooga Garoowe, kaas oo ahaa ninkii markii horeba iga codsaday inaan caawiyo oo aan kala dhex galo Ciidamadii maraykanka iyo nimankii Soomaalida ah ee haystay Kabtanka. Ninkaasii wuxuu ii sheegay in hawlgaal uu dhacay 3 ka mid ah nimankii Soomaalida ahna la dilay.

Saxiixa


Cabdi Siciid Cali Suuriyaan

Taariikkda: 22- Nov- 2009
Dijbouti


AHMED CAWIL MAXAMED
TURJUBAAN.
22/11/2009
Dijibouti